

## CURRENT IMPACT ASSISTANCE SEVERANCE TAX CREDIT STATUTE:

39-29-102(4.5)Definitions: "Local units of government locally impacted" means units of government in the geographic area wherein reside employees of the operation producing the minerals and mineral fuels taxed pursuant to this article. The geographic area shall be determined on the basis of residence as reported in accordance with section 39-29-110 (1) (d).

39-29-107.5 Credit allowed for prior payment of impact assistance.

(1)(a) There shall be allowed, as a credit against any taxes imposed by this article on the severance of minerals or mineral fuels from or for a new operation from or for which first severance occurs subsequent to June 30, 1979, an amount equal to the value of approved contributions by the taxpayer made prior to first severance of such minerals or mineral fuels to assist in solving the impact problems of units of local government resulting from the initiation of such new operation.

(1)(b) There shall be allowed, as a credit against any taxes imposed by this article on the severance of minerals or mineral fuels from or for an operation which has an increase in production from or for which increased severance occurs subsequent to June 30, 1980, an amount equal to the value of approved contributions by the taxpayer made to assist in solving the impact problems of units of local government or local units of government locally impacted by the increase in production of an operation.

(1)(c) There shall be allowed, pursuant to an agreement between or on behalf of the taxpayer and the unit of local government specified in subparagraph (I) of paragraph (a) of subsection (2) of this section as a credit against any taxes imposed by this article on the severance of minerals or mineral fuels, in addition to any amounts determined under paragraphs (a) and (b) of this subsection (1) and subsection (2) of this section, an amount equal to three-fourths of one percent per month times the amount of approved contributions by a taxpayer for each month that any approved contribution precedes the month in which said approved contribution is credited against a taxpayer's yearly severance tax liability. Any amounts of approved contributions credited against a taxpayer's yearly severance tax liability shall be applied to reduce the amount, if any, of approved contributions not previously credited, and the additional percentage provided in this paragraph (c) shall apply solely to said reduced amount of approved contributions.

(2)(a) Approved contributions, for the purpose of such credits, shall include the contribution of property or payment of money to units of local government or local units of government locally impacted, for use in planning, including financial, architectural, and engineering services, construction, or expansion of public facilities, including but not limited to county or municipal roads, schools, recreation facilities, water facilities, sewage facilities, police and fire protection facilities, and hospitals, which are deemed to be necessitated by the initiation of a new operation or increase in production of an existing operation. In addition, subject to the agreement reached pursuant to paragraph (c) of subsection (1) of this section, approved contributions may also include any loss sustained by reason of the sale of any bonds by the taxpayer who purchased such bonds, the proceeds of which bonds are used in the planning, construction, or expansion of any such public facilities by a unit of local government or local unit of government locally impacted, and any loss by reason of the default on loans made by a taxpayer or satisfaction of a guaranty obligation of the taxpayer arising out of the issuance of such bonds, whether or not such bonds are purchased by the taxpayer. Such losses shall be approved contributions as of the date

of the making of a loan, the date of issuance of the bonds, or the date of entering into the guaranty obligation; except that, for purposes of the additional credit allowed pursuant to paragraph (c) of subsection (1) of this section, the date of the approved contribution shall be the date of default on any such loan, the date of loss on any such bond, or the date of satisfaction of any such guaranty obligation. In no event shall the total amount of approved contributions by a taxpayer exceed fifty percent of the severance tax liability which the taxpayer anticipates will be incurred during the first ten years of severance from a new operation or fifty percent of the increased severance tax liability which the taxpayer anticipates will be incurred during the first ten years of severance from an expanded existing operation plus the amounts calculated pursuant to paragraph (c) of subsection (1) of this section. In order for an approved contribution to qualify for credit, the following requirements shall be fulfilled:

(2)(a)(I) Each contribution shall be based on an agreement between or on behalf of the taxpayer and a unit of local government or local unit of government locally impacted, specifying the need for such contribution and its nature, value or amount, and purpose;

(2)(a)(II) Each contribution must be acted upon for credit and, if approved, a certificate of eligibility issued, within ninety days after joint submission by the taxpayer and the unit of local government, or local unit of government locally impacted, by the executive director of the department of local affairs upon the recommendation of the energy impact assistance advisory committee created by section 34-63-102 (5) (b), C.R.S., and failure to act upon the eligibility within said ninety days shall be deemed as approval and certification of the contribution; and

(2)(a)(III) Certification of eligibility for credit of a contribution of a specified value or amount must be transmitted by the executive director of the department of local affairs to the executive director of the department of revenue, the unit of local government or local unit of government locally impacted, and the taxpayer.

(2)(b) In the event that the taxpayer purchases any bonds relating to public facilities as provided in this subsection (2) or makes any loans or guaranty arising out of the issuance of such bonds, the contribution, for purposes of subparagraphs (I) and (II) of paragraph (a) of this subsection (2), shall be the purchase price of any bonds purchased, the face value of any bonds guaranteed, or the amount loaned; except that the taxpayer shall be entitled to claim as a credit pursuant to subsection (3) of this section only the amount of loss on any such bonds, the amount paid in satisfaction of any such guaranty, or the amount of default on any such bonds.

(2)(c) In order for a loss from the purchase and sale of bonds to qualify as an approved contribution:

(2)(c)(I) The purchase must arise out of the original distribution of such bonds; and

(2)(c)(II) The sale of such bonds must be made through a registered broker; and

(2)(c)(III) The sale must take place within five business days of the purchase.

(3) A taxpayer shall be entitled to credit against its severance tax liability in an amount equal to the total of all contributions made and certified as eligible for credit plus the amounts calculated pursuant to paragraph (c) of subsection (1) of this section. The taxpayer may claim such credit by submitting with the annual declarations and returns required by section 39-29-112 the certifications of eligibility for such credit or evidence regarding deemed certification, and in the case of losses sustained by reason of the sale of any bonds purchased by the taxpayer, by reason of satisfaction of a guaranty obligation of the taxpayer arising out of the issuance of bonds, or by reason of loans made by the taxpayer, evidence of such losses. The amount of credit available in any one taxable year, including carry-overs, shall not exceed the taxpayer's severance tax

liability in such year. Any excess shall be carried over and shall be available as a credit in the next succeeding year or years subject to the same annual limitation.

(4) For the purposes of this section, minerals or mineral fuels shall include, but not be limited to, oil shale, crude oil, natural gas, and oil and gas.

Source: L. 79: Entire section added, p. 1506, § 1, effective May 31. L. 80: Entire section amended, p. 739, § 2, effective April 10. L. 81: Entire section amended, p. 1900, § 1, effective July 1. L. 83: (1)(c), (2)(a)(I), and (4) amended, p. 1543, § 1, effective May 20.

39-29-108. Allocation of severance tax revenues.

(3) Effective July 1, 1981, the total gross receipts from any taxpayer who has previously claimed the full amount of the credit for an approved contribution under section 39-29-107.5 shall be allocated solely to the state severance tax trust fund until such time as there is allocated to such fund, in addition to any current allocation to such fund, an amount equal to what would have been allocated to such fund during the time the taxpayer claimed such credit.

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